



# आरत का अजापत्र The Gazette of India

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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on 11th August, 1992.

### BILL NO. 132 OF 1992

*A Bill to provide for the establishment of a Special Court for the trial of offences relating to transactions in securities and for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

(2) It shall be deemed to have come into force on the 6th day of June, 1992.

2. In this Act, unless the context otherwise requires,—

(a) "Code" means the Code of Criminal Procedure, 1973;

(b) "Custodian" means the Custodian appointed under sub-section (1) of section 3;

(c) "securities" includes—

(i) shares, scrips, stocks, bonds, debentures, debenture stock, units of the Unit Trust of India or any other mutual fund or other marketable securities of a like nature in or of any incorporated company or other body corporate;

Short title  
and commence-  
ment.

Defini-  
tions.

2 of 1974.

(ii) Government securities; and

(iii) rights or interests in securities;

(d) "Special Court" means the Special Court established under sub-section (1) of section 5.

Appoint-  
ment  
and func-  
tions of  
Custodian,

**3. (1) The Central Government may appoint one or more Custodians as it may deem fit for the purposes of this Act.**

(2) The Custodian may, on being satisfied on information received that any person has been involved in any offence relating to transactions in securities after the 1st day of April, 1991 and on and before the 6th June, 1992, notify the name of such person in the Official Gazette.

(3) Notwithstanding anything contained in the Code and any other law for the time being in force, on and from the date of notification under sub-section (2), any property, movable or immovable, or both, belonging to any person notified under that sub-section shall stand attached simultaneously with the issue of the notification.

(4) The property attached under sub-section (3) shall be dealt with by the Custodian in such manner as the Special Court may direct.

**(5) The Custodian may take assistance of any person while exercising his powers or for discharging his duties under this section and section 4.**

Contracts  
entered  
into  
fraudu-  
lently  
may be  
cancel-  
led.

**4. (1) If the Custodian is satisfied, after such inquiry as he may think fit, that any contract or agreement entered into at any time after the 1st day of April, 1991 and on and before the 6th June, 1992 in relation to any property of the person notified under sub-section (2) of section 3 has been entered into fraudulently or to defeat the provisions of this Act, he may cancel such contract or agreement and on such cancellation such property shall stand attached under this Act:**

Provided that no contract or agreement shall be cancelled except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by a notification issued under sub-section (2) of section 3 or any cancellation made under sub-section (1) of section 4 or any other order made by the Custodian in exercise of the powers conferred on him under section 3 or 4 may file a petition objecting to the same within thirty days of the assent to the Special Court (Trial of Offences Relating to Transactions in Securities) Bill, 1992 by the President before the Special Court where such notification, cancellation or order has been issued before the date of assent to the Special Court (Trial of Offences Relating to Transactions in securities) Bill, 1992 by the President and where such notification, cancellation or order has been issued on or after that date, within thirty days of the issuance of such notification, cancellation or order, as the case may be; and the Special Court after hearing the parties, may make such order as it deems fit.

Establish-  
ment of  
Special  
Court.

**5. (1) The Central Government shall, by notification in the Official Gazette, establish a Court to be called the Special Court.**

(2) The Special Court shall consist of a sitting Judge of the High Court nominated by the Chief Justice of the High Court within the local limits of whose jurisdiction the Special Court is situated, with the concurrence of the Chief Justice of India.

6. The Special Court shall take cognizance of or try such cases as are instituted before it or transferred to it as hereinafter provided.

Cogni-  
zance of  
cases by  
Special  
Court.

7. Notwithstanding anything contained in any other law, any prosecution in respect of any offence referred to in sub-section (2) of section 3 shall be instituted only in the Special Court and any prosecution in respect of such offence pending in any court shall stand transferred to the Special Court.

Juris-  
diction of  
Special  
Court.

8. The Special Court shall have jurisdiction to try any person concerned in the offence referred to in sub-section (2) of section 3 either as a principal conspirator or abettor and all other offences and accused persons as can be jointly tried therewith at one trial in accordance with the Code.

Juris-  
diction of  
Special  
Court  
as to  
joint  
trials.

9. (1) The Special Court shall, in the trial of such cases, follow the procedure prescribed by the Code for the trial of warrant cases before a magistrate.

Procedure  
and  
powers of  
Special  
Court.

(2) Save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before the Special Court and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session and shall have all the powers of a Court of Session, and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

(3) The Special Court may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted.

(4) While dealing with any other matter brought before it, the Special Court may adopt such procedure as it may deem fit consistent with the principles of natural justice.

10. (1) Notwithstanding anything in the Code, an appeal shall lie from any judgment, sentence or order, not being interlocutory order, of the Special Court to the Supreme Court both on facts and on law.

Appeal.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order of the Special Court.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of any judgment, sentence or order of the Special Court:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

Discharge  
of liabilities.

**11.** (1) Notwithstanding anything contained in the Code and any other law for the time being in force, the Special Court may make such order as it may deem fit directing the Custodian for the disposal of the property under attachment.

(2) The following liabilities shall be paid or discharged in full, as far as may be, in the order as under:—

(a) all revenues, taxes, cesses and rates due from the persons notified by the Custodian under sub-section (2) of section 3 to the Central Government or any State Government or any local authority;

(b) all amounts due from the person so notified by the Custodian to any bank or financial institution or mutual fund;

(c) any other liability as may be specified by the Special Court from time to time.

Protection of  
action  
taken in  
good  
faith.

**12.** (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Custodian for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Act  
to have  
over-  
riding  
effect.

**13.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

Power  
to make  
savings.

**14.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal  
and  
savings.

**15.** (1) The Special Court (Trial of Offences Relating to Transactions in Securities) Ordinance, 1992 is hereby repealed.

Ord.  
10 of 1992.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

**STATEMENT OF OBJECTS AND REASONS**

In the course of the investigations by the Reserve Bank of India, large scale irregularities and malpractices were noticed in transactions in both the Government and other securities, indulged in by some brokers in collusion with the employees of various banks and financial institutions. The said irregularities and malpractices led to the diversion of funds from banks and financial institutions to the individual accounts of certain brokers.

2. To deal with the situation and in particular to ensure the speedy recovery of the huge amount involved, to punish the guilty and restore confidence in and maintain the basic integrity and credibility of the banks and financial institutions the Special Court (Trial of Offences Relating to Transactions in Securities) Ordinance, 1992 was promulgated on the 6th June, 1992. The Ordinance provides for the establishment of a Special Court with a sitting Judge of a High Court for speedy trial of offences relating to transactions in securities and disposal of properties attached. It also provides for appointment of one or more Custodians for attaching the property of the offenders with a view to prevent diversion of such properties by the offenders.

3. The Bill seeks to replace the said Ordinance.

NEW DELHI;

*The 7th July, 1992.*

MANMOHAN SINGH

**FINANCIAL MEMORANDUM**

Sub-clause (1) of clause 3 of the Bill provides for the appointment of one or more Custodians. Sub-clause (5) of that clause provides that the Custodian may take assistance of any person for discharging his duties. Sub-clause (1) of clause 5 of the Bill provides for the establishment of a Special Court.

2. The Bill, if enacted, would involve non-recurring expenditure of rupees 20 lakhs and recurring expenditure of rupees 50 lakhs per annum.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 14 empowers the Central Government to make such rules, if any, as it may deem necessary for the purposes of legislation. The rules, if any, which may be made under this provision will relate to matters of detail which it is not practicable to provide for in the legislation itself.

2. In the circumstances explained above, the delegation of legislative power is of a normal character.

*Memorandum explaining the modification contained in the Bill to replace the Special Court (Trial of Offences Relating to Transactions in Securities) Ordinance, 1992.*

The Special Court (Trial of Offences Relating to Transactions in Securities) Bill, 1992 which seeks to repeal and replace the Special Court (Trial of Offences Relating to Transactions in Securities) Ordinance, 1992 proposes to make the following modification in the provisions contained in the aid Ordinance:—

It is proposed to modify sub-section (3) and (5) of section 3 of the Ordinance and clause (b) of sub-section (2) of section 11 and to insert new sub-section (2) in section 4 and new sub-section (4) in section 9 of the Ordinance through the proposed Bill. The said modifications and insertions are clarificatory in nature.

## BILL NO. 127 OF 1992

*A Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Jammu and Kashmir for the services of the financial year 1992-93.*

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

10 of 1992.

1. This Act may be called the Jammu and Kashmir Appropriation (No. 2) Act, 1992.

Short title.

2. From and out of the Consolidated Fund of the State of Jammu and Kashmir there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Jammu and Kashmir Appropriation (Vote on Account) Act, 1992] to the sum of three thousand seventy crores, eighty-four lakhs and sixty-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1992-93, in respect of the services specified in column 2 of the Schedule.

Issue of  
Rs. 3070,  
84,65,000  
out of the  
Consolidated  
Fund of  
the State  
of Jammu  
and  
Kashmir  
for the  
financial  
year  
1992-93.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Jammu and Kashmir by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Approp-  
riation.

## THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Ap- pro- priation	Services and purposes	3		
		Voted by Parliament	Charged on the Consoli- dated Fund	Sums not exceeding
		Rs.	Rs.	Rs.
1	General Administration . . Revenue	11,40,10,000	1,00,26,000	12,40,36,000
2	Home . . Revenue	146,13,44,000	..	146,13,44,000
3	Planning and Development . . Revenue Capital	4,72,65,000 8,06,70,000	..	4,72,65,000 8,06,70,000
4	Information . . Revenue Capital	3,36,91,000 42,70,000	..	3,36,91,000 42,70,000
5	Ladakh Affairs . . Revenue Capital	37,50,14,000 22,94,14,000	..	37,50,14,000 22,94,14,000
6	Power Development . . Revenue Capital	259,83,92,000 228,63,59,000	..	259,83,92,000 228,63,59,000
7	Education . . Revenue	204,40,34,000	..	204,40,34,000
8	Finance . . Revenue Capital	179,00,60,000 10,35,00,000	398,07,00,000 207,73,00,000	577,07,60,000 218,08,00,000
9	Parliamentary Affairs . . Revenue	1,41,01,000	5,10,000	1,46,11,000
10	Law . . Revenue	5,41,27,000	1,12,64,000	6,53,91,000
11	Industries and Commerce . . Revenue Capital	26,73,05,000 49,84,82,000	..	26,73,05,000 49,84,82,000
12	Agriculture . . Revenue Capital	56,16,24,000 65,21,38,000	..	56,16,24,000 65,21,38,000
13	Animal/Sheep Husbandry . . Revenue Capital	35,48,43,000 6,15,65,000	..	35,48,43,000 6,15,65,000
14	Revenue . . Revenue	72,33,33,000	..	72,33,33,000
15	Food Supplies and Transport . . Revenue Capital	22,88,69,000 263,63,94,000	..	22,88,69,000 263,63,94,000
16	Public Works . . Revenue Capital	147,39,82,000 64,17,72,000	..	147,39,82,000 64,17,72,000
17	Health and Medical Education . . Revenue Capital	98,62,04,000 15,84,28,000	..	98,62,04,000 15,84,28,000
18	Social Welfare . . Revenue Capital	17,53,75,000 2,74,70,000	..	17,53,75,000 2,74,70,000

No. of Vote/ App- ropria- tion	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
19	Housing and Urban Development	Revenue Capital	12,02,31,000 67,31,00,000	12,02,31,000 67,31,00,000
20	Tourism	Revenue Capital	8,07,49,000 11,60,22,000	8,07,49,000 11,60,22,000
21	Forest	Revenue Capital	29,62,23,000 10,90,50,000	29,62,23,000 10,90,50,000
22	Irrigation and Flood Control	Revenue Capital	41,24,96,000 34,66,00,000	41,24,96,000 34,66,00,000
23	Public Health, Sanitation and Water Supply	Revenue Capital	67,38,84,000 49,37,50,000	67,38,84,000 49,37,50,000
24	Estates, Hospitality and Protocol and Gardens and Parks	Revenue	12,24,72,000	12,24,72,000
25	Labour, Stationery and Printing	Revenue Capital	8,01,16,000 1,44,50,000	8,01,16,000 1,44,50,000
26	Fisheries	Revenue Capital	2,80,99,000 1,53,00,000	2,80,99,000 1,53,00,000
27	Higher Education	Revenue	36,20,88,000	36,20,88,000
TOTAL . . .		2462,86,65,000	607,98,00,000	3070,84,65,000

**STATEMENT OF OBJECTS AND REASONS**

This Bill is introduced in pursuance of sub-section (1) of section 81 of the Constitution of Jammu and Kashmir read with the Proclamation issued under article 356 of the Constitution of India in respect of the State of Jammu and Kashmir on the 18th July, 1990, to provide for the appropriation out of the Consolidated Fund of the State of Jammu and Kashmir of the moneys required to meet the expenditure charged on the Consolidated Fund of the State of Jammu and Kashmir and the grants made by the Lok Sabha for the expenditure of the Government of Jammu and Kashmir for the financial year 1992-93.

**SHANTARAM POTDUKHE.**

**PRESIDENT'S RECOMMENDATION UNDER SECTION 84 OF THE CONSTITUTION OF JAMMU AND KASHMIR**

[Copy of letter No. F.2 (118)|B(S)|92 dated the 23rd July, 1992 from Shri Shantaram Potdukhe, Minister of State in the Ministry of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Jammu and Kashmir for the services of the financial year 1992-93 recommends under sub-section (1) and (3) of Section 84 of the Constitution of Jammu and Kashmir, read with the Proclamation dated the 18th July, 1990 issued under article 356 of the Constitution of India, the introduction in and consideration of the Jammu and Kashmir Appropriation (No. 2) Bill, 1992 by Lok Sabha.

C. K. JAIN,  
*Secretary-General.*